



January 20, 2009

Ms. Jennifer J. Johnson  
Secretary  
Board of Governors of The Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue, N.W.  
Washington, D.C. 20551

Sent by email to: [regs.comments@federalreserve.gov](mailto:regs.comments@federalreserve.gov)

Docket No. OP-1338: Proposal Revisions to Appraisal of Evaluation Guidelines

Dear Sirs:

Arvest Bank is a privately-held Arkansas-chartered commercial bank and a member of the Federal Reserve Bank of St. Louis, our primary federal banking regulator. Arvest operates over 215 banking locations in Arkansas, Kansas, Missouri and Oklahoma with about \$10 billion in consolidated banking assets and over \$7 billion in loans.

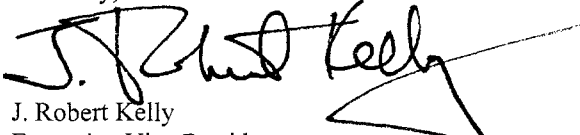
Please find enclosed our comments with respect to the aforementioned proposed changes to the Interagency Appraisal and Evaluation Guidelines.

Should you have any questions regarding the content and meaning of our comments, please contact:

Ms. Yvonne Kinsey  
Loan Review/Office Manager  
Norman, Oklahoma  
405-321-7170

For other questions, please call me at 479-750-1400.

Sincerely,

  
J. Robert Kelly  
Executive Vice President

JRK:hpw

P.O. Box 799 • Lowell, AR 72745 • (479) 750-1400  
[www.arvest.com](http://www.arvest.com)



Arvest Bank  
Comments on  
Proposed Interagency Appraisal and Evaluation Guidelines  
Docket No – OP-1338

## 1. General Comment

The regulations are written that all real estate-related transactions require an evaluation or appraisal, excluding appropriate exempted transactions. The guidelines do not provide for any flexibility for obtaining appraisals or evaluations based on an institution's asset size. Based on risk exposure and cost analysis, it is not cost effective for larger institutions to obtain evaluations on smaller credits. **Consequently, we suggest that the regulations allow for differing thresholds where appraisals or evaluations are required based on bank asset size.**

## 2. Supplementary Information - I. Background

- "Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA)<sup>1</sup> requires each Agency to prescribe appropriate standards for the performance of real estate appraisals in connection with "federally related transactions,"<sup>2</sup> which are defined as those real estate-related financial transactions that an Agency engages in, contracts for, or regulates and that require the services of an appraiser.<sup>3</sup> These rules must require, at a minimum, that real estate appraisals be performed in accordance with generally accepted uniform appraisal standards as evidenced by the appraisal standards promulgated by the Appraisal Standards Board of The Appraisal Foundation (Appraisal Standards Board), and that such appraisals be in writing.<sup>4</sup> Such appraisals are to be performed by an individual whose competency has been demonstrated and whose professional conduct is subject to effective state supervision. An Agency may require compliance with additional appraisal standards if it makes a determination that such additional standards are required in order to properly carry out its statutory responsibilities.<sup>5</sup> Each of the Agencies has adopted additional appraisal standards.<sup>6</sup>" (Federal Register 69649)

**Comment:** We suggest expanded language on defining criteria for competency. Competency might be defined based upon various criteria, such as legal status, geographic market knowledge and technical skills. The appraiser or reviewer should be legally permitted to perform the valuation service based upon state licensing/certification laws. The individual should have adequate knowledge of the specific geographic area/location of the property. And finally, the appraiser/reviewer should have sufficient technical skills as evidenced by education, general appraisal experience and specific experience with the subject property type to adequately address the complexity of the subject property valuation.

## 3. Independence of the Appraisal and Evaluation Program

- "Further, an institution's policies and controls should ensure that the institution does not communicate a predetermined, expected, qualifying or owner's estimate of value, or a loan

amount or target loan-to-value ratio to a person performing an appraisal or evaluation.” (Federal Register 69652)

**Comment:** Due to the complexity of the Appraisal Regulations and Guidelines, one of the roles that we have placed on the person responsible for performing in-bank valuations and ordering appraisals is to be knowledgeable of the requirements of the regulations and to give guidance to our lenders on what type of valuation is required for their particular loan or subsequent transaction. This position has helped us to ensure that we comply on the front end so that loans are appropriately documented. It is very difficult for that person to provide prudent feedback if they are not allowed knowledge of the loan amount for a particular transaction and we believe that our ability to document our loans according to the regulation will be hampered. It is also impractical to have a bank associate perform their normal course of responsibilities which requires access to certain loan documents and records and to prohibit them from seeing a loan amount. We believe that, in most cases, if the position is structured as indicated in the guidelines where it is a person who is independent of the loan production and collection process and they are educated on what the requirements and spirit of the guidelines are, then the position will provide the independence required to provide an objective product to use in the underwriting process.

While our assets approximate \$10 billion, we operate in over 16 distinct trade territories and have our in-bank appraisal specialists located among three markets and not in a central office. This decentralization facilitates prompt performance of in-bank appraisals and evaluations and allows for a better understanding of local market values.

We support this provision with respect to third party appraisers.

#### **4. Minimum Appraisal Standards – Proposed Construction or Renovations**

- “For properties where improvements are to be constructed or rehabilitated, an institution may request a prospective market value as completed and as stabilized.” (Federal Register 69653)

**Comment:** The guidance should expand this section and identify when it is appropriate to use the “as complete method” versus the “as stabilized method” in determining loan-to-value calculations, or give examples.

#### **5. Reviewing Appraisals and Evaluations**

- A. “As part of the credit approval process, an institution should assess the acceptability of the appraisal or evaluation as well as compliance with the Agencies’ appraisal regulations and Guidelines and its own internal policies. The review should be performed prior to the final credit decision and ensure that the appraisal or evaluation adequately supports approval of the credit. Institutions should implement a risk-focused approach to determine the depth of the review needed to ensure that appraisals and evaluations are acceptable.” (Federal Register 69656)

**Comment:** – We presently require a review of all evaluations and/or appraisals to determine its acceptability. The language in the regulation is somewhat vague, implying that an

individual review on all appraisals and evaluations may not be required as long as the review process incorporates a risk-focused approach. Thus, more clarification is needed addressing an institution's need for reviews on all appraisals and evaluations, or possibly the implementation of a sampling technique.

- B. "The institution should document the content of the review in the credit file.... If deficiencies are noted by the reviewer, they should be addressed by the person who prepared the appraisal or evaluation or another qualified, independent person.... An institution should not accept appraisals or evaluations that do not adequately support the opinion of market value and should replace unreliable appraisal or evaluations prior to the final credit decision....Any changes to an appraisal's estimate of value are permitted only as a result of a review conducted by an appropriately qualified state-certified or licensed appraiser in accordance with USPAP." (Federal Register 69656)

**Comments:** The first part of the proposal would indicate that issues, concerns and deficiencies should be addressed and corrected by the preparer of the appraisals and, in fact, the appraisal should not be accepted if the value is not fully supported. We suggest the regulation address instances where the original appraiser is unwilling or unable to resolve follow up questions.

The second part gives flexibility to make changes to the value if the review is conducted by an appropriately qualified state-certified or licensed appraiser. More clarification is needed on when changes can be made to an appraisal's estimate of value during the review. It is our understanding from previous examinations that, generally, changes to the value should not be made during the appraisal review and any issues should be sent back to the original appraiser to correct and/or clarify. We suggest the regulations identify additional review procedures required to determine that any changes made are appropriate or to specifically provide that the reviewer's opinion is acceptable as final.

## **6. Appendix A - Appraisal Exemptions**

### **A. Renewals, Refinancing, and Other Subsequent Transactions –**

- "An evaluation is permitted for renewals for existing extension of credit when either:
  - 1) No new funds are advanced (other than closing costs); or
  - 2) No obvious and material changes in market conditions or the physical aspects of the property threaten the institution's real estate protection after the transaction." (Federal Register 69657)

**Comment:** Refer to comment for 6 (B) below.

### **B. Loan Workouts or Modifications -**

- "As noted above, an institution may advance new monies beyond closing costs when there are no material changes in the physical aspects of the property that threaten the adequacy of the collateral. The Agencies interpret this provision to not require a new appraisal or

evaluation when an institution advances funds to protect its interest in a property, such as to repair damaged property, because these funds would be used to restore the damaged property to its original condition.” (Federal Register 69658)

**Comment:** Further clarification is needed under the Loan Workout Section. This appears to be a new interpretation and conflicts with the initial criteria stated in 6 (A) above. It is not clear if this relates only to a workout situation. The comment originally indicates that there must be no material change in the physical aspects of the property and then says nothing is needed if money is going to “repair” damaged property. It would be helpful to have guidance as to “material changes” and when repairs are considered “material changes.”

#### **C. Other Changes to Loan Terms –**

- “An institution may modify the terms to an existing credit without obtaining a new appraisal or evaluation. Such modification should not involve any advancement or new funds, any material change in the borrower’s creditworthiness, any change to the borrower’s or guarantor’s obligation on the credit, or any changes to the collateral pool or deterioration in collateral protection. For example, an institution may modify the rate on an existing credit, provide a short-term extension, or modify the repayment terms by increasing or reducing monthly payments without obtain a new appraisal or evaluation, as long as the above conditions are met.” (Federal Register 69658)

**Comment:** – This section is very confusing when read with the initial requirements as set forth in 6 (A). This appears to contradict the requirement that an evaluation is required if no new funds are advanced. It is not clear when an evaluation is required during a renewal if no new money is advanced.

#### **7. Appendix B - Evaluation Alternatives**

- C. “The Agencies recognize that evaluation alternatives are available to institutions for developing an estimate of market value. Therefore, institutions should maintain policies and procedures for determining whether an evaluation alternative is appropriate for a given transaction or lending activity, considering associated risk. Such procedures should address risk criteria such as transaction size and purpose, borrower creditworthiness, and leverage tolerance (loan-to-value).

An institution should demonstrate that an evaluation alternative, such as an automated valuation model or tax assessment valuation, provides a reliable estimate of the collateral’s market value as of a stated effective date prior to the decision to enter into a transaction. Further, the institution should establish criteria for determining the extent to which an inspection of the collateral is necessary to determine that the property is in acceptable condition for its current or projected use.

An institution’s policies and procedures also should address the use of multiple tools or methods for valuing the same property or to support a particular lending activity. These procedures should specify criteria for ensuring that the institution uses the most credible method or tool. An institution should not select a method or tool solely on the basis that it

provides the highest value. Examiners will review an institution's policies, procedures, and internal controls to ensure that evaluation alternatives are appropriate and consistent with safe and sound lending practices." (Federal Register 69659)

**Comment:** BPOs (Broker Price Opinions) are used extensively by some financial institutions. The proposed guidelines should acknowledge and provide guidance on the use of this valuation source.